

MULTIMEDIA



UNIVERSITY

STUDENT ID NO

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# MULTIMEDIA UNIVERSITY

## FINAL EXAMINATION

TRIMESTER 1, 2019/2020

### BBL3614 – COMPANY LAW AND SECRETARIAL PRACTICE (All Sections/Groups)

16 OCTOBER 2019  
9.00 a.m - 12.00 p.m  
(3 Hours)

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#### INSTRUCTIONS TO STUDENT

1. This question paper consists of 3 pages with **FOUR (4)** questions only.
2. Attempt **ALL** questions. All questions carry equal marks and the distribution of the marks for each question is given.
3. Please write all your answers in the answer booklet provided.

**QUESTION 1**

- (a) Sunflower Sdn. Bhd. operates a hotel business. Richard, David and Cynthia are the shareholders and directors. Richard manages the company's day-to-day operations and David is in charge of the marketing of the business. Cynthia is a non-executive director who does not take an active part in the management or operations of the company.

The company has been doing very well. However, six months ago, there was a decline of tourists coming to Malaysia and since then the company's profits have dropped considerably. Richard thinks that the company should move to a different area near to the seaside. Without consulting David or Cynthia, he starts looking for new premises and he decides the first place he inspects is perfect, although the price is more than the company can afford. Richard does not think this will be a problem, because there is no hotel nearby and he expects that profits will recover immediately since it is near to the beach. Richard calls a board meeting and tells David and Cynthia that moving will solve all the company's problems and that this property he has seen is absolutely perfect for the hotel business. He says they will have to act quickly as there is another interested purchaser. Richard does not tell David and Cynthia that his sister owns that property and he made a profit out of the transaction. He is so enthusiastic in buying the property that both David and Cynthia agree to the proposal even though Cynthia is doubtful as they have been rushed into making a decision without being given time to consider. David agrees to Richard's proposal without really understanding the financial implications.

Sunflower Sdn. Bhd. purchases the new premises but, because of the continuing decline of tourists coming into the country, its profits remain low. Cynthia is becoming worried about her obligations as a director, especially if Sunflower's financial position deteriorates any further. Discuss whether there is a breach of directors' duties of on the part of Richard, David and Cynthia and whether there is any defence available under the law by referring to relevant statutory provisions.

(20 marks)

- (b) Discuss **FIVE (5)** requirements made by the law for the appointment of a Company Secretary.

(5 marks)

(Total: 25 marks)

**Continued.....**

**QUESTION 2**

In *Re Maidstone Buildings Provisions Ltd* (1971), the court held that the company secretary handles the administrative, not the management matters of the company.

With reference to the above statement, discuss **EIGHT (8)** duties of a company secretary and the procedural requirements for the removal and resignation of the company secretary.

(25 marks)

(Total: 25 marks)

**QUESTION 3**

- (a) Section 70 of the Companies Act 2016 provides that a share or other interest of a member in a company is personal property and transferable. Shares in a company are presumed to be freely transferable. However, the company may place restrictions on the transfer of shares in its constitution.

Based on the above statement, discuss **FIVE (5)** characteristics of shares and explain the restrictions on the transfer of shares.

(10 marks)

- (b) Sutera Bayu Bhd (Sutera Bayu) is a company involved in manufacturing and exporting ceramic vases. KPG & Associates, an audit firm, has audited the account of Sutera Bayu and declared that the company's net asset listed as 20 million. The auditor also reported that the company has successfully made 50% profit compared to the previous year. Relying on the auditor's report, Mr Kuan purchased the shares in the company. A few days later, Mr Kuan discovered that the company's net asset was worth much less and profit of the company increased 1% only. If he knows actual net asset of the company and company's profit only increased 1%, he would not have purchased the shares in Sutera Bayu.

Advise Mr Kuan whether he can take legal action against the auditor.

(15 marks)

(Total: 25 marks)

**Continued.....**

**QUESTION 4**

- (a) Simon Sdn. Bhd. is badly affected by the sharp rise in the labour cost and the shrinking overseas market because of the global economic downturn. They have defaulted payment to their creditors for six months and they foresaw no prospect of resurrecting the company. The creditors intend to take legal action against Simon Sdn. Bhd. and have proceeded to apply to the court for the winding up of the company. Upon the application of the creditors, the court has appointed a liquidator. Discuss the following;
- (i) the **TWO (2)** types of winding up available under the Companies Act 2016 and the type of winding up applicable in this particular situation.
- (8 marks)
- (ii) the duties and powers of a liquidator under the Companies Act 2016.
- (7 marks)
- (b) Discuss **FIVE (5)** circumstances in which the majority members may harm the minority members and the rights of members available under the Companies Act 2016.
- (10 marks)
- (Total: 25 marks)

**End of Paper.**